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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:16-CR-00051-BR

v.

AMMON BUNDY, et al.

Defendant.

**GOVERNMENT'S RESPONSE TO
DEFENDANTS' EMERGENCY
MOTION FOR ORDER
PROHIBITING REMOVAL OF
DEFENDANTS**

The United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and through Ethan D. Knight, Geoffrey A. Barrow, and Craig J. Gabriel, Assistant United States Attorneys, hereby responds to defendants' Motion for Court Order Prohibiting U.S. Marshals from Removing Ryan Payne and Listed Defendants from the District of Oregon (ECF No. 312).

I. Government's Position

The government originally did not object to the defense motion to prevent the defendants from being transported to the District of Nevada on writs of habeas corpus *ad prosequendum*, as

the defense motion was filed on March 16, 2016, and the writs required the defendants' appearance the next day, on March 17, 2016. Logistically, it would have been impractical to have the defendants transported from Oregon to Nevada within one day.

However, the government (which, for purposes of this motion, includes the U.S. Attorney's Offices for both the District of Oregon and the District of Nevada) recommends that the defendants' motion ultimately be denied. The government respectfully requests that this Court coordinate with the U.S. District Court for the District of Nevada to arrange for Ammon Bundy, Ryan Bundy, Ryan Payne, Brian Cavalier, and Blaine Cooper¹ to be arraigned in Nevada Case No. 2:16-CR-46 and have Nevada counsel appointed for defendants in that case, in the most efficient way possible.

Any of the five defendants may consent to be arraigned in the Nevada case by video teleconferencing ("VTC") under Fed. R. Crim. P. 10(c). Absent consent under Rule 10(c) from a defendant, the government requests that the U.S. Marshals Service be permitted to transport that defendant from the District of Oregon to the District of Nevada (for purposes of the defendant's arraignment in the Nevada case) and then back to the District of Oregon, as expeditiously as possible.

II. Legal Argument

Case law demonstrates that the writs of habeas corpus *ad prosequendum* issued by the United States District Court for the District of Nevada are, in fact, valid. *See, e.g., United*

¹ These five defendants are currently in custody in this case in the District of Oregon. They have been charged in the District of Nevada, but they have not yet made an initial appearance on the Nevada case.

States v. Kelly, 661 F.3d 682 (1st Cir. 2011). Further, the government will be prepared to argue at the hearing that if a temporary transport to Nevada and back to Oregon were required, then such a transport would not violate the defendants' constitutional rights in any way.

III. Conclusion

The U.S. District Court for the District of Nevada has the authority to commence proceedings against the five defendants listed above. The most logical way to accomplish the defendants' arraignments in the Nevada case would be via VTC. Should a defendant not consent to a VTC arraignment, then the government requests that arrangements be made by this Court and the U.S. District Court for the District of Nevada for an efficient transport plan to ensure a prompt disposition of both cases.

Dated this 21st day of March 2016.

Respectfully submitted,

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s/ Craig J. Gabriel
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